DEPARTMENT OF STATE REVENUE

SUPPLEMENTAL LETTER OF FINDINGS NUMBER: 04-0409
Sales/Use Tax
For Tax Years 2001 through 2003

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I. Sales/Use Tax—Equipment

Authority: IC 6-8.1-5-1(b); 45 IAC 15-5-3; *Hoogenboom-Nofziger v. State Bd. Of Tax Comm'rs*, 715 N.E.2d 1018 (Ind. Tax Ct. 1999); 45 IAC 2.2-5-8.

Taxpayer protests the proposed assessment of tax on equipment

STATEMENT OF FACTS

This is a Supplemental Letter of Finding ("S.L.O.F."), thus the facts are the same as the original Letter of Finding ("L.O.F."): the taxpayer manufactures parts for the automotive industry. More facts will be provided below as needed.

I. Sales/Use Tax—Equipment

DISCUSSION

As the Department has previously noted, the *taxpayer* bears the burden of proof. IC 6-8.1-5-1(b) states in pertinent part:

> The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made.

The Indiana Administrative Code also states "[t]he burden of proving that a proposed assessment is incorrect rests with the taxpayer…." 45 IAC 15-5-3(b)(8).

45 IAC 15-5-3(b)(7) also notes that the "purpose of the hearing is to *clearly* establish the taxpayer's *specific* objections to the assessment and *reasoning* for these objections." (*Emphasis* added).

Also of import, although a property tax case, is *Hoogenboom-Nofziger v. State Bd. Of Tax Comm'rs*, 715 N.E.2d 1018, 1024 (Ind. Tax Ct. 1999), a case in which the Indiana Tax Court explained that, "State Board hearing officers do not have the duty to make a taxpayer's case."

With that in mind, we can turn to the taxpayer's supplemental brief and a spreadsheet listing. In the supplemental brief the taxpayer specifically argues two items ("Specific Line Items"): a conveyor and scrap chutes. The taxpayer also makes an argument regarding the uncoiler being a component part. The taxpayer says the following regarding the conveyor:

> The conveyor is shown on the video provided to the department. The conveyor is attached to the press and conveys stamped parts to a packaging station. Employees at the station place the parts in containers that [taxpayer] uses to transport the parts onto assembly areas in the plant. The stamped parts are work-in-process that [taxpayer] will use as component parts in other parts that [taxpayer] manufactures.

The Department agrees with the taxpayer that the conveyor comes within the ambit of 45 IAC 2.2-5-8(f)(3), which states that, "Transportation equipment used to transport work-in-process or semi-finished materials to or from storage is not subject to tax if the transportation is within the production process." The Department finds that the conveyor is used within the production process.

Next, the taxpayer says that the scrap chutes:

> …are attached to the presses and allow the press to operate. [Taxpayer's representative] believes that the scrap chutes are component parts of the press. [Taxpayer's representative] has outlined the arguments relating to the component part argument in the original brief.

The "component part" argument of the taxpayer's original brief deals with "nut and bolt feeders that feed nuts or bolts into welding machines." The original brief that the taxpayer references to does not specifically address and develop the scrap chute argument, nor does the taxpayer sufficiently address and develop that argument in the supplemental brief. Thus the taxpayer is denied regarding the scrap chutes.

The taxpayer also states that the Department did not address in the original L.O.F. the taxpayer's "argument that the uncoiler is a component part of the press." The Department denied the taxpayer's argument regarding the uncoiler in the original L.O.F., finding that, "The uncoiler is pre-production, as outlined in 45 IAC 2.2-5-8(d)."

Component parts are dealt with in 45 IAC 2.2-5-8(g). That regulation states in relevant part:

> Machinery, tools, and equipment which are used *during the production process* and which have an immediate effect upon the article being produced are exempt from tax. Component parts of a unit of machinery or equipment, which has an immediate effect on the article being produced, are exempt if such components are an integral part of such manufacturing unit. (*Emphasis* added)

Since the uncoiler was found by the Department to be outside of production (viz., pre-production), 45 IAC 2.2-5-8(g) is not applicable. The taxpayer is denied on the "component part" argument regarding the uncoiler.

Finally, the taxpayer provided a "spreadsheet listing." Over the course of the taxpayer's two briefs, the taxpayer (it appears) has dealt with the items on the spreadsheet listing (and thus the Department has addressed the items in either the L.O.F. or this S.L.O.F.). But in the event that an item on the spreadsheet was not addressed, the Department reiterates language cited at the outset of this S.L.O.F. regarding the burden of proof and the purpose of the hearing.

FINDING

Taxpayer's protest is sustained regarding the conveyor; the taxpayer is denied regarding all other items.

DP/BK/DK December 4, 2006